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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Toby Holden et al.
Serial No.: 10/676,615
Filed: October 1, 2003
Title: SELF-POWERED MOTORIZED WINDOW
Docket No.: 34980

PETITION UNDER 37 CFR § 1.47(a)

Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This petition is filed in response to the Notice to File Missing Parts mailed December 24, 2003, copy enclosed. The period for reply expires on February 24, 2004. The missing declarations for inventors Toby Holden and Brandon Moore have been obtained and are enclosed with this petition. However, as explained below, Applicants request the petition be treated as under Rule 1.47(a) because one of the four named inventors, Thomas V. Lozito, cannot be reached. A check for \$260 is enclosed to cover the \$130 petition fee under Rule 1.47 and the \$130 late declaration surcharge.

In August of 2003, a diligent search for Thomas V. Lozito was conducted relative to a separate patent application serial No. 10/237,912, requiring a signed declaration, after material sent to Mr. Lozito at his last known address was returned as undeliverable for lack of a forwarding address. The documentation of this search was forwarded to the Office of Petitions

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Mail Stop Petitions, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Robert F. Bodi
Name of Attorney for Applicant
2-19-04
Date Signature of Attorney

and was found by Mr. Paul Shanoski to be in compliance with 37 CFR 1.47(a).

We have performed an updated search in a further effort to reach Mr. Lozito, but were still unable to locate him. Attached as Exhibit B is the declaration of Robert F. Bodi pertaining to the search, along with supporting exhibits documenting both the prior (July/August 2003) and more recent (February 2004) searches.

Accordingly, Applicant hereby requests that the Commissioner accept declarations of Toby Holden and Brandon Moore (enclosed) along with the previously provided declaration of David K. Evans, on behalf of both themselves and Thomas V. Lozito, who could not be found or reached after a diligent effort.

The name and last-known address of the inventor who could not be reached and who therefore has not joined in the application are as follows:

Thomas V. Lozito
11621-B James Watt Dr.
El Paso, TX 79936

If there are any other fees required by this communication that are not covered by the enclosed check, please charge any such fees to our Deposit Account No. 16-0820, Order No. 34980.

Respectfully submitted,

PEARNE & GORDON LLP

By: 

Robert F. Bodi, Reg. No. 48540

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: February 19, 2004

RFB/djg

Enclosures

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Toby Holden et al.
Serial No.: 10/676,615
Filed: October 1, 2003
Title: AWNING ROLLER WITH INTERNAL MOTOR
Docket No.: 34980

DECLARATION OF ROBERT F. BODI

Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Robert F. Bodi, hereby declare, upon personal knowledge and/or upon information and belief, that:

1. I am a registered patent attorney with the firm Pearne & Gordon LLP in Cleveland, Ohio.
2. On August 29, 2003, Mr. Bryan Bergin, an agent of the assignee, The Dometic Corporation, sent to Mr. Thomas Lozito at his last-known address via certified mail, return receipt requested, a package containing a complete copy of the above-captioned patent application, including specification, claims, drawings and abstract, a Declaration and Power of Attorney form, an Assignment form, and a cover letter.
3. The cover letter requested Mr. Lozito to review the application and execute and return the Power of Attorney and Assignment forms by April 25, 2003.
4. The letter further stated that failure to execute and return the Declaration and Power of Attorney form by April 25, 2003 would be deemed to constitute Mr. Lozito's refusal to join in the patent application.
5. The package sent to Mr. Lozito was returned to by the U.S. Postal Service, citing no forwarding address as the reason the package was returned.
6. At my direction, law clerk David J. Grover performed the following search operations relating to a separate patent application with the same named inventor,

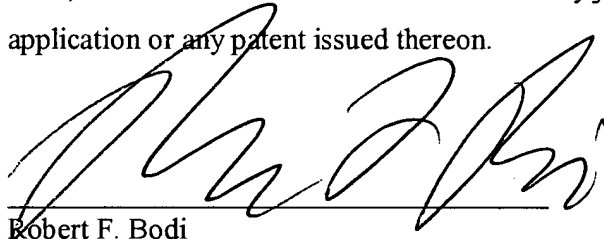
and reported the following results:

- a. An Internet White Pages search on both the "Yahoo! People Search" and "AnyWho" web sites was conducted for the name "Thomas Lozito" and "T. Lozito"
 - b. The search was national in nature, and not directed to any specific state.
 - c. The search produced 6 possible listings for "T. Lozito" and "Thomas Lozito" in total (see attached Exhibits 1 & 2 for web page printouts of the results).
 - d. The associated phone numbers were called on August 13, 2003. One number had been disconnected (with no forwarding number), two listings were verified as not being the sought-after Thomas V. Lozito, and messages were left on answering machines for the remaining three numbers.
 - e. An email search using "Yahoo! People Search" was conducted for Thomas Lozito, which produced an email address for a Thomas V. Lozito of El Paso, Texas (see attached Exhibit 4).
 - f. An email message seeking Thomas V. Lozito was sent to the above discovered email address, and also to a last known email address provided by Dometic Corporation, Thomas V. Lozito's last known place of employment (see Exhibit 5).
 - g. Both email messages were returned as being undeliverable (see Exhibits 6 & 7).
7. Exhibit 3 is a spreadsheet summary of the responses obtained from the saved messages. After repeated calling and multiple messages left on voice mail by myself, two of the numbers were confirmed not to be the Thomas V. Lozito being sought. The final number could not be reached due to continuous answering by voice mail with no reachable individual. Repeated messages requesting a return call were not returned.
 8. Also at the direction of Robert F. Bodi, law clerk David J. Grover contacted the Human Resources Department of Dometic Corporation, Thomas V. Lozito's last known place of employment, and the post office for Thomas V. Lozito's home address, to see if there were any forwarding addresses or telephone numbers. No forwarding addresses were available.
 9. At the further direction of Robert F. Bodi, law clerk David J. Grover performed a follow up search on February 13, 2004, relating to the instant application, in an effort to locate updated information on Thomas V. Lozito. The following results were reported:
 - a. An Internet White Pages search on both the "Yahoo! People Search" and "WhitePages.com" web sites was conducted for the names "Thomas

Lozito” and “T. Lozito”.

- b. The search was national in nature and not directed to any specific state.
 - c. The search produced 4 possible listings for Thomas or Tom Lozito (see Exhibits 8 & 9), all of which were duplicates of listings discovered in the prior search (see Exhibits 1 – 3).
 - d. An e-mail search using “Yahoo! People Search” was conducted for Thomas Lozito.
 - e. The search produced one e-mail address for a Thomas V. Lozito of El Paso, Texas (see Exhibit 10), which is a duplicate of the e-mail address discovered in the prior search and no longer valid (see Exhibit 6).
10. None of the above steps provided any clue as to the current location of Thomas V. Lozito, and thus no further steps were taken to locate him.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the present application or any patent issued thereon.



Robert F. Bodi
Registered Patent Attorney

February 19, 2004
Date

Welcome, Guest User

Yahoo! People Search

[Create My Listing - Sign In](#)

White Pages Search Results

Your Search: **Thomas Lozito** ([Revise Search](#))

Showing 1 - 4 of 4

[First](#) | [Previous](#) | [Next](#) | [Last](#)

Name	Address	Phone
Thomas Lozito More info at US Search	4168 Carambola Cir S Coconut Creek, FL Add to Address Book, Map	(954) 977-8291
Thomas Lozito More info at US Search	3333 N Charles St Baltimore, MD Add to Address Book, Map	(410) 366-7452
Tom Lozito More info at US Search	San Mateo, CA Add to Address Book, Map	(650) 570-7702
Tom Lozito More info at US Search	4615 Pleasant View Rd Huntington, WV Add to Address Book, Map	(304) 523-1398

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Thomas Lozito ([Locate](#))
T. Lozito ([Locate](#))
Tho Lozito ([Locate](#))

[See all "Thomas Lozito" results](#)

First Name:

Last Name:

Street:

City/Town:

State:

Zip:

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Your People Search Listing

Manage your public contact info in People Search by [updating your listing](#). Help your friends, old classmates and co-workers find you by keeping your email address and "Organizations" section current.

Search for Singles at Yahoo! Personals



Ready to find someone special? It's free to search or post your own ad - now with video & voice. Go on, give fate a nudge.

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Exhibit 2

AnyWho

Walt Disney World

A Fairytale Vacation - Seven for Four

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Order of the Phoenix
J. K. Rowling
New \$17.99!

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Find a Person

Last Name (e.g., Bush) Required

Lozito

First Name (e.g., George)

T

Street Name (e.g., Pennsylvania)

City

State Required

California

Zip Code



Your search is based on: T Lozito in CA
Results 1 - 1 of 1 Try Public Records!

PRE

Residential Listings

Lozito, Tom

SAN MATEO, CA 94403

650-570-7702

Maps & Directions | Did you go to school with Tom Lozito?
Find More on Tom Lozito

Advertisemen
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People
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First Name

Last Name

Search

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Backgroun
Check

People Sear

Address Histo

Phone Numb

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As American as

AMERICA'S INTERNET ADDRESS

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stocks
for \$4

shareBUILDER

Find a Person

Last Name (e.g., Bush) Required

Lozito

First Name (e.g., George or G)

T

Street Name (e.g., Pennsylvania)

City

and

State Required

Florida

Zip Code

Find it

Your search is based on: T Lozito in FL
Results 1 - 3 of 3 [Try Public Records!](#)

◀ PREVIOUS | NEXT ▶

Residential Listings

Lozito, Anthony

10523 104 Ave N

SAINT PETERSBURG, FL 33773

727-398-7349

[Maps & Directions](#) | [Did you go to school with Anthony Lozito?](#)[Find More on Anthony Lozito](#)

Lozito, T

SANFORD, FL 32771

407-328-9253

[Maps & Directions](#) | [Did you go to school with T Lozito?](#)[Find More on T Lozito](#)

Lozito, Thomas

4168 Carambola Circle S

COCONUT CREEK, FL 33066

954-977-8291

[Maps & Directions](#) | [Did you go to school with Thomas Lozito?](#)[Find More on Thomas Lozito](#)

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AnyWho



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Advanced Search

Promotions



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Nearly Everything
Bill Bryson
New \$15.68!

(Prices May Change)
[Privacy Information](#)

Find a Person

Last Name (e.g., Bush) *Required*

Lozito

First Name (e.g., George)

T

Street Name (e.g., Pennsylvania)

City

State *Required*

Maryland

Zip Code

and



Your search is based on: T Lozito in MD
Results 1 - 1 of 1 [Try Public Records!](#)

PRE

Residential Listings

Lozito, Thomas

3333 N Charles St
BALTIMORE, MD 21218

410-366-7452

[Maps & Directions](#) | [Did you go to school with Thomas Lozito?](#)
[Find More on Thomas Lozito](#)

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from AT&T

Buy
stocks
for \$4
shareBUILDER

Find a Person

Last Name (e.g., Bush) Required

Lozito

First Name (e.g., George or G)

T

Street Name (e.g., Pennsylvania)

City

and

State Required

North Carolina

Zip Code

Find it

Your search is based on: T Lozito in NC
Results 1 - 1 of 1 [Try Public Records!](#)

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Residential Listings

Lozito, Tom

1704 Field View Rd

SCOTTS HILL, NC 28411

910-686-3385

[Maps & Directions](#) | [Did you go to school with Tom Lozito?](#)
[Find More on Tom Lozito](#)

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People
Search

First Name

Last Name

Search

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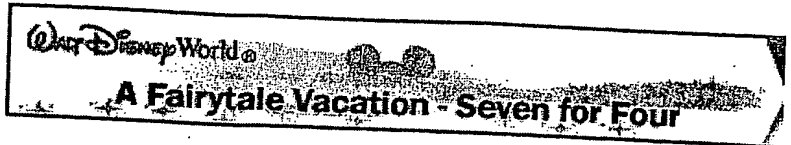
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[Public Records](#)

[Satellite Photos](#)

4/5

AnyWho



HOME YELLOW PAGES WHITE PAGES REVERSE LOOKUP TOLL FREE INTERNATIONAL SEARCH THE WEB

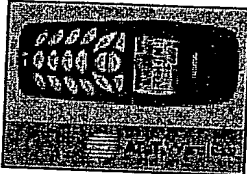
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Promotions



The Secret Life of Bees
Sue Monk Kidd
New \$8.40!

(Prices May Change)
[Privacy Information](#)

Find a Person

Last Name (e.g., Bush) Required

Lozito

First Name (e.g., George)

T

Street Name (e.g., Pennsylvania)

City

State Required

West Virginia

Zip Code



Your search is based on: T Lozito in WV
Results 1 - 1 of 1. [Try Public Records!](#)

PRE

Residential Listings

Lozito, Tom

4615 Pleasant View Rd
HUNTINGTON, WV 25701

304-523-1398

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First Name

Last Name

Search

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5/5

Exhibit 3

NAME	ADDRESS	PHONE #	NOTES
Thomas Lozito	Coconut Creek, FL	954-977-8291	answering machine message 8/13/03; Confirmed not inventor on 9/9/03
Thomas Lozito	Baltimore, MD	410-366-7452	disconnected number
Tom Lozito	San Mateo, CA	650-570-7702	wrong person
Tom Lozito	Huntington, WV	304-523-1398	wrong person
T. Lozito	Sanford, FL	407-328-9253	answering machine message left repeatedly No return call; No person reachable.
Tom Lozito	Scotts Hill, NC	910-686-3385; changed to 910-343-1416 (9-9-03)	answering machine message ("Tony") Confirmed inventor not at this number

attempt to locate named inventor Thomas V. Lozito, formerly of the Dometic Corporation

WDO 34318

Welcome, Guest User

Yahoo! People Search

Email Search Results

Your Search: **Thomas Lozito** ([Revise Search](#) or try [Advanced](#))

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Name	Location	Email
Thomas V Lozito (More info at US Search)	El Paso Add to Address Book	71542.3346@compuserve.com

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Thomas Lozito ([Locate](#))
 T. Lozito ([Locate](#))
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David J. Grover

Exhibit 5

From: David J. Grover [dgrover@pearnegordon.com]
Sent: Tuesday, July 29, 2003 2:29 PM
To: 'tlozito@elp.rr.com'
Subject: pending patent, Thomas V. Lozito

Dear Sir:

Our records indicated that this e-mail address is registered to Thomas V. Lozito. We have been trying to contact a Thomas V. Lozito who had been working for the Dometic Corporation. Briefly, we are seeking issuance of a patent for which the above Thomas Lozito was one of the inventors, and we need the signatures of all inventors in order for the patent to issue in the names of the inventors.

Please reply to this e-mail to let us know if you are Thomas V. Lozito and you worked for the Dometic Corporation. Your assistance in this matter would be greatly appreciated. Thank you.

Best regards,

David Grover

Pearne & Gordon LLP
526 Superior Avenue East
Suite 1200
Cleveland, Ohio 44114-1484
(216) 579-1700
dgrover@pearnegordon.com

David J. Grover

Exhibit 6

From: CompuServe Postmaster [auto.reply@compuserve.com] on behalf of CompuServe
Sent: Postmaster [postmaster@compuserve.com]
To: Thursday, July 24, 2003 1:17 PM
Subject: dgrover@pearnegordon.com
Undeliverable Message

Receiver not found: 71542.3346

Your message could not be delivered as addressed.

--- Message From Postmaster ---

Subject: Addressing CompuServe Mail users

Please contact postmaster@compuserve.com if you feel this is not correct.

Cordially,

The Electronic Postmaster

--- Returned Message ---

Sender: dgrover@pearnegordon.com
Received: from pearnegordon.com ([216.82.94.2])
by siaag2ac.compuserve.com (8.12.9/8.12.7/SUN-2.7) with ESMTP id h6OHDxwM011674
for <71542.3346@compuserve.com>; Thu, 24 Jul 2003 13:14:01 -0400 (EDT)
Received: {(helo=DELL5152)}
by pearnegordon.com with smtp (Exim 3.35 #1)
id 19fjpJ-0004A5-00; Thu, 24 Jul 2003 13:24:25 -0400
From: "David J. Grover" <dgrover@pearnegordon.com>
To: <9315728763@via.reunitetonight.com>, <71542.3346@compuserve.com>
Subject: pending patent, Thomas V. Lozito
Date: Thu, 24 Jul 2003 13:13:55 -0400
Message-ID: <000001c35206\$ff719f220\$3a01a8c0@pearnegordon.com>
MIME-Version: 1.0
Content-Type: text/plain;
charset="iso-8859-1"
Content-Transfer-Encoding: 7bit
X-Priority: 3 (Normal)
X-MSMail-Priority: Normal
X-Mailer: Microsoft Outlook CWS, Build 9.0.6604 (9.0.2911.0)
Importance: Normal
X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2800.1165

Dear Sir:

An Internet search indicated that this e-mail address is registered to Thomas V. Lozito. We have been trying to contact a Thomas V. Lozito who had been working for the Dometic Corporation. Briefly, we are seeking issuance of a patent for which the above Thomas Lozito was one of the inventors, and need the signatures of all inventors in order for the patent to issue.

Please reply to this e-mail to let us know if you are Thomas V. Lozito and you worked for the Dometic Corporation. Your assistance in this matter would be greatly appreciated. Thank you.

Best regards,

David Grover

Pearne & Gordon LLP
526 Superior Avenue East
Suite 1200
Cleveland, Ohio 44114-1484
(216) 579-1700
dgrover@pearnegordon.com

David J. Grover

Exhibit 7

From:
Sent:
To:
Subject:

Mail Delivery Subsystem [MAILER-DAEMON@elp.rr.com]
Tuesday, July 29, 2003 2:32 PM
dgrover@pearnegordon.com
Returned mail: see transcript for details



ATT00003.dat

pending patent,
Thomas V. Lozi...

0600 (MDT) The original message was received at Tue, 29 Jul 2003 12:31:53 -
from txmx02.mgw.rr.com [24.93.35.209]

----- The following addresses had permanent fatal errors -----
<tlozito@elp.rr.com>
(reason: 550 Invalid recipient <tlozito@elp.rr.com>)

----- Transcript of session follows -----
... while talking to mail.elp.rr.com.:
>>> DATA
<<< 550 Invalid recipient <tlozito@elp.rr.com>
550 5.1.1 <tlozito@elp.rr.com>... User unknown
<<< 503 No recipients specified

Exhibit 8

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Sign In
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Search the web

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Yahoo! People Search

White Pages Search Results

Your Search: **Thomas Lozito** ([Revise Search](#))

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Name	Address	Phone
Thomas Lozito More info at US Search	4168 Carambola Cir S Coconut Creek, FL Add to Address Book , Map	(954) 977-8291
Thomas Lozito More info at US Search	3333 N Charles St Baltimore, MD Add to Address Book , Map	(410) 366-7452
Tom Lozito More info at US Search	San Mateo, CA Add to Address Book , Map	(650) 570-7702
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City/Town:

State:

Zip:

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FIND A BUSINESS

REVERSE PHONE

REVERSE ADDRESS

AREA & ZIP CODES

MAILING LISTS

Thomas Lozito Public Records Search!

Search Information:



Searched terms: "Lozito, Thomas, United States" [New search](#) | [Modify search](#) | [Printer-Friendly](#)

3 Total Results

Search took 0.07 seconds

Limit Results by First Initial:

Sort Results by:

Lozito, Thomas

» 1 / 3

4168 Carambola Cir S
Coconut Creek, FL 33066-2574
(954) 977-8291

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Exhibit 10

Welcome, Guest User

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Email Search Results

Your Search: **Tom Lozito** ([Revise Search](#) or try [Advanced](#))

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Name	Location	Email
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